

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Kevin Scott Karsjens,

Civil No. 15-2590 (DWF/JFD)

Plaintiff,

v.

ORDER

Jenn Gross, *in her individual capacity*,

Defendant.

This matter is before the Court on Plaintiff Kevin Scott Karsjens's *pro se* letter request to dismiss the case in its entirety without prejudice. (Doc. No. 67.) In a recent R&R, Magistrate Judge Docherty recommended that the Court dismiss claims against Dana Osborne and Thorne Torgerson in their individual capacities for failure to effectuate service. The Court adopted the R&R and dismissed Karsjens's claims against Osborne and Torgerson without prejudice. (Doc. No. 68.) The only remaining Defendant is Jenn Gross.

Although Karsjens's letter request does not mention Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure, the Court construes his request as a notice of voluntary dismissal under Rule 41(a)(1)(A). *See Ventura-Vera v. Dewitt*, 417 F. App'x 591, 591-92 (8th Cir. 2011) (concluding that a *pro se* motion to dismiss "was effectively a notice of dismissal of claims"). Defendant Gross has not answered the Complaint or moved for summary judgment. "A motion to dismiss is not considered to be the equivalent of either an answer or a motion for summary judgment." *Horde v. City of Apple Valley*,

No. 13-cv-3107, 2014 WL 3577310, at *3 (D. Minn. July 18, 2014) (internal quotations and citation omitted); *see also Hawkins v. Singer*, No. 02-cv-4098, 2003 WL 22076552, at *2 n.1 (D. Minn. Sept. 2, 2003) (“Defendants have filed motions to dismiss, but these do not fit the narrow strictures of Rule 41(a).”). Thus, Karsjens has a right to voluntarily dismiss his claims against Gross without the Court’s approval. This dismissal will be without prejudice. *See* Fed. R. Civ. P. 41(a)(1)(B). Gross’s motion to dismiss will therefore be denied as moot.

ORDER

1. Karsjens’s *pro se* letter request to dismiss the case in its entirety without prejudice (Doc. No. [67]) is **GRANTED**.
2. Gross’s motion to dismiss (Doc. No. [60]) is **DENIED AS MOOT**.
3. Karsjens’s claims against Gross are **DISMISSED WITHOUT PREJUDICE**.

Dated: December 20, 2023

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge